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REMARKS

I. Rejections under 35 USC §102

Claims 1-5, 7-8, 11-13, 15-16, 23-26 and 30 are rejected as being anticipated by Mulier et al. (US 5,431,649). Mulier discloses an ablation catheter with a hollow needle and a helical electrode connected to a source of RF power to ablate the tissue adjacent the electrode. A conductive fluid is injected through the needle electrode to cool the adjacent tissue and increase the conductivity of the tissue in the area of the electrode.

The final office action indicates that the structure of a closed cavity is taught by Mulier in that the lumen of the insulate housing 12 is considered to be a cavity. By this response, Applicant has amended claim 1 to specify that the elongated body terminates at the distal end with an end wall and an electrode at the distal end of the elongated body includes a conductive structure defining a closed cavity distal of the distal end wall of the elongated body. Thus, amended claim 1 and the claims dependent from it are novel over Mulier.

The functional language of the claims is deemed to not impart any structural limitations over Mulier. Applicant disagrees in that the recited characteristics provide defining limitations of the structure. However, notwithstanding that disagreement, claim 23 has been amended to recite that the electrode at the distal end of the elongated body adapted for pacing myocardial tissue via intimate contact with a surface of the electrode includes means, when a current is delivered via the conductor to the electrode, for producing a first current density at a first electrode surface and a second current density at a second electrode surface, the first current density being smaller than the second current density so that the second electrode surface forms a high impedance and low polarization stimulating electrode. The language deemed merely functional has now been cast in means-plus-function form pursuant to section 112,

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paragraph 6. Applicant submits that Mulier does not include structure that performs the specified function. Claim 23, as amended, is therefore novel over Mulier.

II. Rejections under 35 USC §103

Various dependent claims to claims 1 and 23 were rejected as being unpatentable for obviousness based upon Mulier as the primary reference as applied in rejecting the independent claims for anticipation. As discussed above, Mulier fails to disclose significant limitations of amended independent claims 1 and 23, and thus the dependent claims rejected for obviousness also recite subject matter as a whole which does not result from a combination of Mulier with any of the other cited references. Accordingly, the obviousness rejections set forth in the office action necessarily also fail.

III. Conclusion

In view of the amendments to the independent claims and the remarks above, Applicant submits that all claims distinguish over the prior art and are non-obvious. Applicant respectfully requests that a notice of allowance be issued in due course.

Respectfully submitted,

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Date


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